

VZCZCXYZ0017
PP RUEHWEB

DE RUEHLGB #0552/01 2251633
ZNY CCCCC ZZH
P 121633Z AUG 08
FM AMEMBASSY KIGALI
TO SECSTATE WASHDC PRIORITY 5525

C O N F I D E N T I A L KIGALI 000552

SENSITIVE
SIPDIS

E.O. 12958: DECL: 08/12/2018
TAGS: [PREL](#) [PGOV](#) [KCRM](#) [RW](#)
SUBJECT: FURTHER PROGRESS ON BWINDI ASSURANCES

REF: KIGALI 343

Classified By: CDA Cheryl Sim for reasons 1.4 (b) and (d).

11. (SBU) This is an action request - see paragraph 6.

12. (C) Charge met with Minister of Justice Tharcisse Karugarama and Prosecutor General Martin Ngoga August 11 to discuss the Government of Rwanda's (GOR) assurances letter necessary for the deportation of the Bwindi defendants back to Rwanda. The GOR has refused to sign any letter that explicitly states the GOR would "protect these individuals from any and all forms of torture" (reftel). Karugarama forcefully maintained this position, arguing such a statement would only add credibility to the defendants' "scandalous" allegations that they were tortured and would be akin to an admission of GOR guilt in this regard. Karugarama reviewed the history of how these "murderers" ended up in the United States, emphasizing that the GOR violated its own Constitution to meet our demands. He also recalled that the FBI had reviewed all the collected evidence prior to the defendants' departure and at that time, there had been no USG concerns about torture. Ngoga added the language on torture was problematic for the GOR because it ignored the strides made in the Rwandan justice sector since the trio had been taken to the United States.

13. (C) Both Karugarama and Ngoga questioned the U.S. judge's competence to ascertain whether the defendants had been tortured, noting that the judge probably had no idea of what life is like in rural or jungle regions in developing countries. To prove their point, they showed their own extensive childhood scars and expressed incredulity that the Bwindi defendants would emerge from time spent as combatants in an impenetrable forest without wounds attributable to factors beside alleged torture.

14. (C) When asked about the status of the GOR's adherence to the Convention Against Torture (CAT), Karugarama stated it had cleared all of the GOR's legislative and procedural requirements and the instrument of ratification should have been deposited with appropriate UN offices. Upon calling in his action officer, he was chagrined to learn the Ministry of Foreign Affairs (MFA) had not sent in the ratification. Ngoga was also clearly peeved by MFA inaction, adding he had been advising the International Criminal Tribunal for Rwanda (ICTR) that Rwanda had joined the CAT. Joining the CAT, according to Ngoga, is one of the actions the ICTR has been urging for the transfer of cases from Arusha to Rwanda. Both promised to get to the bottom of this with the Foreign Minister immediately.

15. (SBU) Karugarama raised the assurances the GOR and British government had concluded for the extradition of four individuals, but said the problem the GOR had in the Bwindi case was the specific involvement of the FBI and the fact that the FBI knew full well the case history. In response, Charge stated she had reviewed all the correspondence between the Embassy and the GOR as well as the UK/GOR assurances and

noted the UK/GOR assurances included a reference to a specific article of the International Covenant on Civil and Political Rights (ICCPR, to which the GOR is a signatory) in the text. Under the circumstances and stressing that she had not discussed this with the Department, she wondered if there might be any scope for a similar approach with the Bwindi assurances by including a reference to Article 7 of the ICCPR in the text of the assurance letter. (Note: Article 7 reads "No one shall be subjected to torture, or to cruel or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." End note.) Karugarama and Ngoga were receptive to this suggestion as possible way to break the impasse. Karugarama proposed the following text:

"The Government of Rwanda will provide Mssrs Bimenyimana, Nyaminani and Karake will all legal and procedural guarantees provided for under the Rwandan Constitution, Rwandan law and Rwanda's international legal obligations, including as a Party to the International Covenant on Civil and Political Rights and in accordance with the provisions of Article 7."

16. (SBU) Action request: Embassy requests the Department to consider the above compromise language and provide guidance as soon as possible.

17. (C) Comment. It is clear the GOR will not accede to our request for an explicit reference to torture in the assurances letter. Although neither Karugarama nor Ngoga want to see the Bwindi defendants walk free, they will also strenuously refute any effort to put the onus on the GOR for developments that lead to the defendants' release in the United States. Post believes we can have the assurances letter signed this week if we are able to agree to either the language above or some variation thereof. Suggestions that this be raised at higher levels in the GOR will likely result in Karugarama losing control of the issue and if that should happen, our chance of obtaining any assurance letter.

SIM